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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,267	07/31/2003	Kenneth H. Kohlndorfer	816 DIV2	3787

23518 7590 08/16/2005
KEY SAFETY SYSTEMS, INC.
PATENT DEPARTMENT
7000 NINETEEN MILE ROAD
STERLING HEIGHTS, MI 48314

EXAMINER

NGUYEN, JOHN QUOC

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/631,267

Applicant(s)

KOHLDORFER ET AL.

Examiner

John Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,30 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,30 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's affirmation of the election without traverse of claims 29, 30, 36 in the reply filed on 6/18/04 has been acknowledged.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebner et al (US 5788176) in view of DE 2729280.

Ebner et al discloses an apparatus having substantially all the claimed features including a frame 10, force limiting means/torsion bar 30, and spool 12. Elements such as 32 and 70 are made from plastic/resin. It is old and well known to use plastic/resin material instead of metal when the plastic/resin meets strength requirements to reduce weight and manufacturing costs, and eliminate corrosion. DE '280 discloses a seatbelt device having plastic frame members 2, 3, 8, 9. In view of the prior art as a whole and of the elements of Ebner et al already made from plastic, it would have been obvious to a person having ordinary skill in the art to further make the frame of Ebner et al from plastic/resin if the plastic/resin can meet the strength requirements ("first level pull") to obtain the above advantages, i.e. to reduce weight and manufacturing costs, and eliminate corrosion. Since the FMVSS 209 is a Federal safety standard related to seatbelts and the devices of Ebner et al and DE '280 are deemed to inherently meet the standard.

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Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebner et al (US 5788176) in view of DE 2729280 as applied to claims 29 and 30 above, and further in view of DE 3244204.

DE '204 discloses a retractor frame 1 having a single lower mounting member 6. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of Ebner et al modified as above with a single lower mounting member as taught by DE '204 to conveniently mount the retractor to a mounting surface via a single mounting member.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 29, 30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6419178. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skill in the art that

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claims 29 and 30 are encompassed in claims 1-16 of the above patent. Since the FMVSS 209 is a Federal safety standard related to seatbelts and the device claimed in the above patent are deemed to inherently meet the standard.

Claim 29, 30, 36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6722601 in view of Ebner et al (US 5788176). Claims 1-9 of the above patent disclose substantially all the claimed features. Ebner et al is cited to show the old and well known torsion bar. It would have been obvious to a person having ordinary skill in the art to provide the apparatus of the above claims 1-9 with a torsion bar as taught by Ebner et al to absorb energy as is old and well known in the art. Since the FMVSS 209 is a Federal safety standard related to seatbelts and the devices claimed in the above patent and in Ebner et al are deemed to inherently meet the standard.

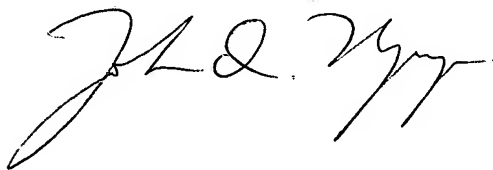
Applicant's arguments filed 5/25/05 have been fully considered but they are not persuasive.

As noted in the rejection above, the use plastic/resin material instead of metal when the plastic/resin meets strength requirements to reduce weight and manufacturing costs, and eliminate corrosion would have been obvious to a person having ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-6952. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday, from 7:00 AM to 4:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John Q. Nguyen
Primary Examiner
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